

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:15-CR-46-H-9

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|--------------------------|---|----------------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | <u>ORDER ON PRELIMINARY</u> |
| |) | <u>EXAMINATION AND DETENTION</u> |
| MICHAEL MAINQUIST, |) | 18 U.S.C. § 3141 <i>et seq.</i> |
| |) | Fed. R. Crim. P. 32.1(a)(6) |
| Defendant. |) | |

This matter came before the court today for a preliminary examination on the government's motion for revocation of Defendant's supervised release and for a hearing on the government's motion to detain Defendant pursuant to 18 U.S.C. § 3141 *et seq.* The government presented the testimony of United States Probation Officer Kristyn Super. Defendant was represented by counsel and presented the testimony of Kim Manquist, Defendant's wife, as a proposed third-party custodian.

I.

Following his conviction for conspiracy to distribute and possess with intent to distribute a quantity of heroin, in violation of 21 U.S.C. §§ 841, and 846, Defendant commenced a 36-month term of supervised release on or about November 8, 2018. On October 17, 2019, the government filed an amended motion to revoke Defendant's supervised release on the following grounds: (1) use of a controlled substance, (2) failure to participate as directed in a urinalysis program and in a treatment program for addiction or dependency, and (3) criminal conduct. [DE-494].

On November 12, 2019, the government filed a second amended motion for revocation of supervised release. [DE-502]. The amended motion supplements the amended motion with additional allegations of Defendant's missed urinalysis screenings and outpatient substance abuse treatment appointments as well as notification by Defendant's treatment provider that on November

7, 2019, Defendant tested positive for the use of Alprazolam and Hydroxyalprazolam. *Id.*

II.

At the commencement of the consolidated hearings, Defendant advised the court his intention to waive the preliminary examination in this matter. Accordingly, the court conducted further inquiry of Defendant in open court, and accepted Defendant's knowing and voluntary waiver of the preliminary examination. Accordingly, the court finds probable cause to support the government's second amended motion for revocation of Defendant's supervised release.

III.

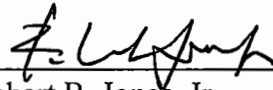
In addition, having considered the record pursuant to 18 U.S.C. § 3142(g) and based on the findings and reasons stated below and in open court, the court finds Defendant has failed to establish by clear and convincing evidence that he will not pose a danger to any other person or to the community as required. *See* Fed. R. Crim. P. 32.1(a)(6). The government's motion for detention is therefore allowed.

The law requires that Defendant be detained pending further proceedings based on the following principal findings and reasons: (1) the nature of the alleged violations and the strength of the government's case for revocation; (2) earlier court action on Defendant preceding the motion, as well as violations of supervised release conditions alleged to have arisen after Defendant's hearing before the district court on or about September 11, 2019, (3) and other findings and reasons stated in open court. The factors cited by Defendant's counsel and considered by the court as mitigating, including the testimony of Defendant's wife, do not outweigh the factors in favor of detention. *See* Fed. R. Crim. P. 32.1(a)(6).

Accordingly, Defendant is committed to the custody of the Attorney General or a designated

representative for confinement in an appropriate correction facility pending resolution of this matter. Defendant shall be afforded a reasonable opportunity to consult privately with defense counsel. On order of the United States Court or on request of an attorney for the government, the person in charge of the corrections facility shall deliver Defendant to the United States Marshals for the purpose of an appearance in connection with a court proceeding.

SO ORDERED, the 13th day of November 2019.

A handwritten signature in black ink, appearing to read "R. B. Jones, Jr.", is written over a horizontal line.

Robert B. Jones, Jr.,
United States Magistrate Judge